

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

In re: BRIDGESTONE/FIRESTONE, INC.,) Master File No. IP 00-9373-C-B/S
TIRES PRODUCTS LIABILITY LITIGATION) MDL NO. 1373
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THIS DOCUMENT RELATES TO ALL)
ACTIONS)

ENTRY ESTABLISHING DEADLINES FOR FOREIGN LAW EXPERT DISCOVERY

During a recent telephonic discovery conference relating to the foreign accident cases in this MDL, the parties raised, and the magistrate judge took under advisement, the issue of whether experts on foreign law are subject to the same discovery deadlines as other types of experts. While it cannot be disputed that foreign law is an issue of law for the trial court to resolve as provided by Federal Rule of Civil Procedure 44.1, all of the parties anticipate that the courts before whom the cases ultimately are tried will admit evidence, including the testimony of experts, to assist them in determining the applicable foreign law. There is a dispute among the parties, however, whether they are required to name these experts and submit expert reports from them at this stage in the litigation, along with the traditional expert discovery, or whether a separate schedule should be adopted for discovery related to foreign law experts.

The magistrate judge determines that the latter is appropriate, at least in this litigation. The role of the typical expert witness governed by Federal Rule of Civil Procedure 26 is to assist the fact finder in making factual determinations at trial. The expert's testimony is governed by the Federal Rules of Evidence and subject to rigorous cross-examination, and therefore is subject to extensive pretrial disclosure and examination. In contrast, foreign law experts are for the sole assistance of the trial court. Their testimony and/or written submissions are permitted solely at the discretion of the court, and may or may not be subject to evidentiary rules or cross-examination. Indeed, there is no guarantee that the trial judge will admit foreign law expert testimony in any given case. In light of these differences, the need for discovery significantly in advance of trial is not as great for foreign law

experts as it is for other types of expert witnesses.

In this particular litigation, the parties are embarking on extensive expert pretrial discovery that will consume months of deposition time. There is no reason to further complicate this schedule by requiring disclosure of the legal experts within this same time frame. Therefore, the deadlines applicable to foreign law experts shall be 90 days later than the respective deadlines for all other expert witnesses. This means, for example, that for cases designated as “First Wave” foreign accident cases, the parties shall identify their foreign law experts and the topics on which their testimony will be tendered by **July 29, 2002**; the plaintiffs shall serve their foreign law expert reports by **August 28, 2002**; the defendants shall serve their foreign law expert reports by **September 27, 2002**; and all depositions of foreign law experts shall be completed by **October 27, 2002**.

ENTERED this _____ day of April 2002.

V. Sue Shields
United States Magistrate Judge
Southern District of Indiana

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